



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

April 24, 1995

Ms. Evelyn Robinson
Acting Manager
Materials Management
Capital Metropolitan Transportation Authority
2910 East Fifth Street
Austin, Texas 78702

OR95-198

Dear Ms. Robinson:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, chapter 552 of the Government Code. Your request was assigned ID# 31679.

The Capital Metropolitan Transportation Authority ("Capital Metro") received an open records request for information that you contend may be withheld from the public pursuant to the Open Records Act, section 552.103(a) of the Government Code. Section 552.103(a) applies to information:

(1) relating to litigation of a civil or criminal nature or settlement negotiations, to which the state or a political subdivision is or may be a party or to which an officer or employee of the state or a political subdivision, as a consequence of the person's office or employment, is or may be a party; and

(2) that the attorney general or the attorney of the political subdivision has determined should be withheld from public inspection.

To secure the protection of section 552.103(a), a governmental body must demonstrate that requested information "relates" to settlement negotiations or to a pending or reasonably anticipated judicial or quasi-judicial proceeding. Open Records Decision No. 588 (1991). In this instance you have made the requisite showing that the requested information relates to settlement negotiations or reasonably anticipated litigation for purposes of section 552.103(a).

However, we note that the information at issue is a letter from the potential opposing party in the anticipated litigation. Since the potential opposing party has seen the information at issue, there is no justification for now withholding that information from the requestor pursuant to section 552.103(a). Open Records Decision Nos. 349 (1986), 320 (1982).¹ As you raise no other exception to the release of the requested information, we conclude that it must be disclosed.

We are resolving this matter with this informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and may not be relied upon as a previous determination under section 552.301 regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,



Kay H. Guajardo
Assistant Attorney General
Open Government Section

KHG/rho

Ref.: ID# 31679

Enclosures: Submitted documents -

cc: Mr. Douglas Killough
7508 Lobelia Lane
Austin, Texas 78729
(w/o enclosures)

¹We note that should other potential opposing parties exist, section 552.103 would except the information from disclosure. You state that you expect other parties, including the City of Austin and the Austin Steam Train Association, to be joined in the anticipated litigation. We assume that the interests of these two parties, should they be joined in the litigation, would be aligned with those of Capital Metro.